

Judge Upholds Kinoy's Conviction For Outburst at HUAC Hearings

9/20/66

By Jim Hoagland
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General Sessions Judge Harold H. Greene disputed yesterday the contention that his conviction of lawyer Arthur Kinoy for disorderly conduct before the House Un-American Activities Committee has had a "chilling effect" on the legal profession.

Greene, in an 11-page opinion upholding the conviction, said, "this conviction renders nothing illegal that would not have been illegal in any event. "It does not extend by one iota the area of impermissible conduct. If it did, this Court would be the first to resist the extension."

Kinoy, a law professor at Rutgers University, had asked Greene to reverse the conviction.

The professor, who is 45, had been representing a witness called by the House Committee when he was hauled, kicking and screaming, from the committee room on Aug. 17 after he had refused to obey the committee chairman's order to sit down.

At the trial, Kinoy's attorneys argued that his conduct had not been disorderly but had only been a "vigorous defense" of his client. Greene

disagreed, and said Kinoy's actions had overstepped the bounds lawyers must observe in defending their clients.

In his argument for reversal of the conviction, Kinoy contended that his actions should be punished, if at all, as contempt, rather than under the disorderly conduct statute.

Prosecution for disorderly conduct would inhibit the legal profession because it punishes lawyers for vigorously defending clients, Kinoy held. He also alleged the conviction violated the Constitution's separation of powers, because Congress has its own machinery for handling contempt.

Greene disposed of the first contention by holding that, under the committee's rules, Kinoy had no standing as a lawyer at the time of his "loud and boisterous" conduct, because the committee's rules limit an attorney's role to advising witnesses who are on the stand.

Kinoy had attempted to object to the testimony of another witness. He was overruled, but persisted, refused to sit down after repeated warnings, and was then arrested.

Greene also dismissed the contention that Congress could have tried Kinoy for

contempt. He said Congress can only place contempt charges against witnesses who refuse to answer questions.

If the disorderly charge were not applicable to such actions, "Congress would be unprotected from disruptive tactics," Greene said.

Kinoy's lawyers said they plan to appeal Greene's ruling.